



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/636,075	08/07/2003	Barry H. Lee	349.227	9846

7590 08/10/2005

Andrew S. McConnell
Boyle, Fredrickson, Newholm, Stein & Gratz, S.C.
250 E. Wisconsin Avenue, Suite 1030
Milwaukee, WI 53202

EXAMINER

FIDEI, DAVID

ART UNIT PAPER NUMBER

3728

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No.	Applicant(s)	
	10/636,075	LEE ET AL.	
	Examiner	Art Unit	
	David T. Fidei	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17,23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,8-17,23 and 24 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Specification

1. The abstract of the disclosure is objected to because the details of page 5, line 13 incorporated by reference is left out. Page 7, line fails to name the transparent. Correction is required. See MPEP § 608.01(b). When amending the specification applicant is also requested to show where support can be found for the insertions to avoid the question of new matter.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 13-17 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. On page 8 of the present specification an upper engagement section 24 has a forwardly angled top wall 70, a vertical engagement wall 72, a pair of side walls 74 with an opening 76 formed in engagement wall 72. A display section 28 is also described on page 7 to maintain a card to bear information relative to the packaged product.

As to claim 13, it is not clear where the present disclosure provides an outwardly facing wall defining an upper area and a lower area. It appears pluralities of walls are required, and disclosed, to form the various sections of the present invention. The “outward” facing wall includes a engagement structure in claim 13 yet the description provides no such detail. As outlined above “the engagement wall 72” includes an opening that appears to be what applicant is defining in the claim. Yet it can hardly be said wall 72 can be viewed as an outwardly facing wall defining an upper area and a lower area offset in a forward direction having the claimed details recited. Hence claim 13, along with the further dependent claims is deficient under 35 U.S.C. 112, first paragraph.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 9-13, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Huot, Jr. et al (Patent no. 6,206,189). A packaged product is disclosed comprising an outwardly facing wall defined by hanger tab 38, that is offset in a forward direction relative to the lower area 22, see figure 2. The product is engaged within the lower area in a manner such that the product is located forwardly of the wall 30. The upper area of the outwardly facing wall includes an engagement structure defined by the opening to support the package in a suspension-type manner. The lower area is configured to position the product such that the center of gravity, and the entire product itself, is located below (vertically) the engagement structure as shown in figure 1.

As to claims 23 & 24, and engagement means is defined by member 38 and a product support means defined lower section 22. That planar surface area of the tab 38 between the opening (not numbered) and the wall portion 26 defines display means in as much as is claimed and disclosed.

As to claim 1 and upper section is defined in Huot, Jr. et al by the opening in tab 38. An intermediate section is formed by that planar surface area of the tab 38 between the opening (not numbered) and the wall portion 26. Lower area defines a product support section.

As to claim 2, the suspension type engagement section includes an opening configured to receive a hook or the like to suspend the package.

As to claim 3, the display section wall described above is exposed between the upper engagement surface and product support section.

As to claims 9-11, the product support section includes an opening 86 that engages with the product engagement structure of a complementary structure.

As to claim 12, member 84 and 85 defines a post.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4, 8 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huot, Jr. et al (Patent no. 6,206,189) as applied to claim 13, 23 and 24 above, and further in view of Zakarian (Patent no. 5,803,253). The difference between the claimed subject matter and Huot, Jr. et al resides in the exposed portion of the outwardly facing wall carrying information about the product, claims 14, 4. Wherein the information about the product is carried on a card, claim 15. The outwardly facing wall is recited as being formed of a transparent material, claims 8, 16, which Huot, Jr. et al is, see col. 4, line 66 of Huot, Jr. et al. Also the structure of claim 17 is disclosed by Huot, Jr. et al.

Zakarian discloses that it is well known in the tool product display are to provide exposed portions of the package to carry information about the product. Zakarian shows this as a card or label 44, note figure 1 or embossed surfaces, note figure 10. It would have been obvious to one of ordinary skill in the art to provide the outwardly facing wall of Huot, Jr. et al carrying information about the product as suggested by Zakarian, in order to provide product identification or information.

Allowable Subject Matter

8. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3728

Response to Arguments

9. Applicant's arguments with respect to claims 13-17 and 23 have been considered but are moot in view of the new ground(s) of rejection.

This action is Non-Final.

Conclusion


10. Any inquiry concerning this communication or earlier communications from the Examiner concerning the merits of the claims should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. Further information may be obtained from;

General Information Number 800-786-9199 or 308-4357

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David T. Fidei
Primary Examiner
Art Unit 3728

dtf
August 5, 2005


Mickey Yu
Supervisory Patent Examiner
Group 3700

Application/Control Number: 10/636,075

Page 6

Art Unit: 3728